

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JONATHAN BEIJAR,
Plaintiff

v.

Civil Action No.04-10233-RCL

STANLEY FASTENING SYSTEMS, L.P.,
Defendant

**PLAINTIFF JONATHAN BEIJAR'S OPPOSITION TO THE DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

The Plaintiff, Jonathan Beijar, hereby opposes the Motion for Summary Judgment filed by the Defendant, Stanley Fastening Systems, L.P., in the above captioned matter. His reasons are:

1. The Defendant is not entitled to summary judgment because there are material facts in dispute, including the central issue of how the incident occurred;
2. The Defendant is not entitled to judgment as a matter of law because the Plaintiff has set forth facts which, if viewed in the light most favorable to the Plaintiff, support his claims.
3. Dr. Igor Paul's expert testimony is supported by the facts, his knowledge of physics, and his reconstruction of the accident, not speculation. His testimony is therefore competent, reliable and relevant, and should be admitted into evidence; and
4. The Defendant was not prejudiced by late notice on the warranty causes of action. His contemplation of litigation is meaningless and his final decision

to pursue litigation depended upon his ability to access the nailer, which was in the possession of his former employer.

In support of his Opposition, the Plaintiff relies on the pleadings filed to date, depositions, answers to interrogatories, responses to requests for production of documents, the affidavit of the Plaintiff, the enclosed Plaintiff Jonathan Bejar's Memorandum of Law in Opposition to the Defendant's Motion for Summary Judgment, and the enclosed Plaintiff Jonathan Bejar's Response to the Defendant's Statement of Undisputed Material Facts, which are incorporated herein as part of this opposition.

The Plaintiff requests a hearing before the Court to present an oral argument in support of his Opposition.

Respectfully submitted,
JONATHAN BEIJAR,
By his attorney,

/s/ Scott W. Lang
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Dated: November 14, 2005